

**IN THE UNITED STATES DISTRICT COURT  
FOR THE DISTRICT OF DELAWARE**

GUARDIAN INDUSTRIES CORP. )

Plaintiff, )

v. )

C.A. No. 05-27- SLR

DELL, INC.; GATEWAY, INC.; HEWLETT-PACKARD )  
COMPANY; ACER INC.; ACER AMERICA )  
CORPORATION; AOC INTERNATIONAL; ENVISION )  
PERIPHERALS, INC.; TPV TECHNOLOGY, LTD., TPV )  
INTERNATIONAL (USA), INC.; AU OPTRONICS )  
CORPORATION; AU OPTRONICS CORPORATION )  
AMERICA a/k/a AU OPTRONICS AMERICA, INC.; )  
BENQ CORPORATION; BENQ AMERICA )  
CORPORATION; CHUNGHWA PICTURE TUBES, )  
LTD. a/k/a CHUNGHWA PICTURE TUBES )  
COMPANY; TATUNG COMPANY; TATUNG )  
COMPANY OF AMERICA, INC.; BOE HYDIS )  
TECHNOLOGY COMPANY, LTD.; BOE HYDIS )  
AMERICA INC.; CHI MEI OPTOELECTRONICS; )  
COMPAL ELECTRONICS, INC.; DELTA )  
ELECTRONICS, INC.; DELTA PRODUCTS )  
CORPORATION; DELTA ELECTRONICS )  
(THAILAND) PUBLIC COMPANY, LTD.; HANNSTAR )  
DISPLAY CORPORATION; JEAN CO., LTD.; LITE-ON )  
TECHNOLOGY CORPORATION; LITE-ON, INC. a/k/a )  
LITEON TRADING USA, INC.; MAG TECHNOLOGY )  
COMPANY, LTD.; MAG TECHNOLOGY USA, INC.; )  
PROVIEW INTERNATIONAL HOLDINGS, LTD.; )  
PROVIEW TECHNOLOGY, INC.; PROVIEW )  
ELECTRONICS COMPANY, LTD.; and )  
QUANTA DISPLAY, INC. )

JURY TRIAL DEMANDED

Defendants. )

**DEFENDANT DELL INC.'S  
ANSWER AND DEFENSES TO THE AMENDED COMPLAINT**

Defendant Dell Inc. ("Dell") files this, its Answer to Guardian Industries Corporation's ("Guardian" or "Plaintiff") Amended Complaint for Patent Infringement (the "Complaint") (D.I. 50), along with its defenses, denying infringement of any valid

and/or enforceable claim of U.S. Patent No. 5,570,214 (“the ‘214 patent”), U.S. Patent No. 5,694,187 (“the ‘187 patent”), U.S. Patent No. 6,226,065 (“the ‘065 patent”) or U.S. Patent No. 6,229,588 (“the ‘588 patent”) (collectively, “the patents-in-suit”).

**I. ANSWER**

1. Dell admits that Plaintiff alleges an action for patent infringement. Dell denies that it has infringed, willfully or otherwise, any valid and/or enforceable claim of the patents-in-suit. Dell lacks information sufficient to form a belief as to the truth of the remaining allegations set forth in paragraph 1 of the Complaint, and therefore denies them.

2. Dell admits that the patents-in-suit generally relate to specific Liquid Crystal Displays (“LCDs”) and that an LCD is a type of flat panel display that is used in some computer monitors. Dell denies all remaining allegations in paragraph 2 of the Complaint.

3. Based on the “Assignee” specified on the face of U.S. Patent No. 5,570,214 (the “ ‘214 patent”) Dell denies that Guardian is the owner of the ‘214 patent. Dell admits the remaining allegation in paragraph 3 of the complaint.

4. Based on the “Assignee” specified on the face of U.S. Patent No. 5,694,187 (the “ ‘187 patent”) Dell denies that Guardian is the owner of the ‘187 patent. Dell admits the remaining allegation in paragraph 4 of the complaint.

5. Based on the “Assignee” specified on the face of U.S. Patent No. 6,226,065 (the “ ‘065 patent”) Dell denies that Guardian is the owner of the ‘065 patent. Dell admits the remaining allegation in paragraph 3 of the complaint.

6. Based on the “Assignee” specified on the face of U.S. Patent No. 6,229,588 (the “ ‘588 patent”) Dell denies that Guardian is the owner of the ‘588 patent. Dell admits the remaining allegation in paragraph 3 of the complaint.

7. Dell admits that Plaintiff alleges an action for patent infringement. Dell denies that it has infringed, willfully or otherwise, any valid claim of the patents-in-suit. Dell lacks information sufficient to form a belief as to the truth of the remaining allegations set forth in paragraph 7 of the Complaint, and therefore denies them.

8. Dell lacks information sufficient to form a belief as to the truth of the allegations set forth in paragraph 8 of the Complaint, and therefore denies them.

9. Dell lacks information sufficient to form a belief as to the truth of the allegations set forth in paragraph 9 of the Complaint, and therefore denies them.

10. Dell admits the allegations set forth in paragraph 10 of the Complaint.

11. Dell lacks information sufficient to form a belief as to the truth of the allegations set forth in paragraph 11 of the Complaint, and therefore denies them.

12. Dell lacks information sufficient to form a belief as to the truth of the allegations set forth in paragraph 12 of the Complaint, and therefore denies them.

13. Dell lacks information sufficient to form a belief as to the truth of the allegations set forth in paragraph 13 of the Complaint, and therefore denies them.

14. Dell lacks information sufficient to form a belief as to the truth of the allegations set forth in paragraph 14 of the Complaint, and therefore denies them.

15. Dell lacks information sufficient to form a belief as to the truth of the allegations set forth in paragraph 15 of the Complaint, and therefore denies them.

16. Dell lacks information sufficient to form a belief as to the truth of the allegations set forth in paragraph 16 of the Complaint, and therefore denies them.

17. Dell lacks information sufficient to form a belief as to the truth of the allegations set forth in paragraph 17 of the Complaint, and therefore denies them.

18. Dell lacks information sufficient to form a belief as to the truth of the allegations set forth in paragraph 18 of the Complaint, and therefore denies them.

19. Dell lacks information sufficient to form a belief as to the truth of the allegations set forth in paragraph 19 of the Complaint, and therefore denies them.

20. Dell lacks information sufficient to form a belief as to the truth of the allegations set forth in paragraph 20 of the Complaint, and therefore denies them.

21. Dell lacks information sufficient to form a belief as to the truth of the allegations set forth in paragraph 21 of the Complaint, and therefore denies them.

22. Dell lacks information sufficient to form a belief as to the truth of the allegations set forth in paragraph 22 of the Complaint, and therefore denies them.

23. Dell lacks information sufficient to form a belief as to the truth of the allegations set forth in paragraph 23 of the Complaint, and therefore denies them.

24. Dell lacks information sufficient to form a belief as to the truth of the allegations set forth in paragraph 24 of the Complaint, and therefore denies them.

25. Dell lacks information sufficient to form a belief as to the truth of the allegations set forth in paragraph 25 of the Complaint, and therefore denies them.

26. Dell lacks information sufficient to form a belief as to the truth of the allegations set forth in paragraph 26 of the Complaint, and therefore denies them.

27. Dell lacks information sufficient to form a belief as to the truth of the allegations set forth in paragraph 27 of the Complaint, and therefore denies them.

28. Dell lacks information sufficient to form a belief as to the truth of the allegations set forth in paragraph 28 of the Complaint, and therefore denies them.

29. Dell lacks information sufficient to form a belief as to the truth of the allegations set forth in paragraph 239 of the Complaint, and therefore denies them.

30. Dell lacks information sufficient to form a belief as to the truth of the allegations set forth in paragraph 30 of the Complaint, and therefore denies them.

31. Dell lacks information sufficient to form a belief as to the truth of the allegations set forth in paragraph 31 of the Complaint, and therefore denies them.

32. Dell lacks information sufficient to form a belief as to the truth of the allegations set forth in paragraph 32 of the Complaint, and therefore denies them.

33. Dell lacks information sufficient to form a belief as to the truth of the allegations set forth in paragraph 33 of the Complaint, and therefore denies them.

34. Dell lacks information sufficient to form a belief as to the truth of the allegations set forth in paragraph 34 of the Complaint, and therefore denies them.

35. Dell lacks information sufficient to form a belief as to the truth of the allegations set forth in paragraph 35 of the Complaint, and therefore denies them.

36. Dell lacks information sufficient to form a belief as to the truth of the allegations set forth in paragraph 36 of the Complaint, and therefore denies them.

37. Dell lacks information sufficient to form a belief as to the truth of the allegations set forth in paragraph 37 of the Complaint, and therefore denies them.

38. Dell lacks information sufficient to form a belief as to the truth of the allegations set forth in paragraph 38 of the Complaint, and therefore denies them.

39. Dell lacks information sufficient to form a belief as to the truth of the allegations set forth in paragraph 39 of the Complaint, and therefore denies them.

40. Dell lacks information sufficient to form a belief as to the truth of the allegations set forth in paragraph 40 of the Complaint, and therefore denies them.

41. Dell lacks information sufficient to form a belief as to the truth of the allegations set forth in paragraph 41 of the Complaint, and therefore denies them.

42. Dell lacks information sufficient to form a belief as to the truth of the allegations set forth in paragraph 42 of the Complaint, and therefore denies them.

43. After a reasonable investigation, Dell lacks information sufficient to form a belief as to the truth of the allegations set forth in paragraph 43 of the Complaint, and therefore denies them.

44. Dell admits that Plaintiff alleges a cause of action under the Patent Laws of the United States and that this Court has subject matter jurisdiction pursuant to 28 U.S.C. §§ 1331 and 1338(a).

45. Dell admits that this Court has personal jurisdiction over Dell. Dell denies that it has infringed, contributed to the infringement of or induced the infringement of any valid claim of the patents-in-suit. Dell denies the remaining allegations, if any, contained in paragraph 45 of the Complaint to the extent such allegations are directed to Dell. For any allegations contained in paragraph 45 of the Complaint which are directed toward defendants other than Dell, Dell lacks information sufficient to form a belief as to truth of the allegations and therefore denies them.

46. Dell admits that venue is proper for Dell. Dell denies the remaining allegations contained in paragraph 46 of the Complaint to the extent such allegations are directed to Dell. For any allegations contained in paragraph 46 of the Complaint which are directed toward defendants other than Dell, Dell lacks information sufficient to form a belief as to truth of the allegations and therefore denies them.

47. No new allegations are contained within paragraph 47 and a response by Dell is not necessary. To the extent a response may be deemed necessary, Dell denies the allegations in paragraph 47.

48. Dell admits that the face of the '214 patent indicates that it was issued on October 29, 1996. Based on the assignee information on the face of the patent, Dell denies the allegations contained in the second sentence of paragraph 48 of the Complaint.

49. Dell denies that it has infringed, contributed to or actively induced infringement of any valid and/or enforceable claim of the '214 patent. Dell denies the remaining allegations, if any, contained in paragraph 49 of the Complaint to the extent such allegations are directed to Dell. For any allegations contained in paragraph 49 of the Complaint which are directed toward defendants other than Dell, Dell lacks information sufficient to form a belief as to truth of the allegations and therefore denies them.

50. It is not possible to determine whether the allegations in paragraph 50 of the Complaint are directed to Dell. To the extent such allegations are directed to Dell, they are denied. For any allegations contained in paragraph 50 of the Complaint which are directed toward defendants other than Dell, Dell lacks information sufficient to form a belief as to truth of the allegations and therefore denies them.

51. Dell denies that it has infringed, contributed to or actively induced infringement of any valid and/or enforceable claim of the '214 patent. Dell denies the remaining allegations, if any, contained in paragraph 51 of the Complaint to the extent such allegations are directed to Dell. For any allegations contained in paragraph 51 of the Complaint which are directed toward defendants other than Dell, Dell lacks information sufficient to form a belief as to truth of the allegations and therefore denies them.

52. The allegations contained in paragraph 52 of the Complaint are directed toward defendants other than Dell and Dell lacks information sufficient to form a belief as to truth of the allegations and therefore denies them.

53. The allegations contained in paragraph 53 of the Complaint are directed toward defendants other than Dell and Dell lacks information sufficient to form a belief as to truth of the allegations and therefore denies them.

54. The allegations contained in paragraph 54 of the Complaint are directed toward defendants other than Dell and Dell lacks information sufficient to form a belief as to truth of the allegations and therefore denies them.

55. The allegations contained in paragraph 55 of the Complaint are directed toward defendants other than Dell and Dell lacks information sufficient to form a belief as to truth of the allegations and therefore denies them.

56. The allegations contained in paragraph 56 of the Complaint are directed toward defendants other than Dell and Dell lacks information sufficient to form a belief as to truth of the allegations and therefore denies them.

57. The allegations contained in paragraph 57 of the Complaint are directed toward defendants other than Dell and Dell lacks information sufficient to form a belief as to truth of the allegations and therefore denies them.

58. The allegations contained in paragraph 58 of the Complaint are directed toward defendants other than Dell and Dell lacks information sufficient to form a belief as to truth of the allegations and therefore denies them.

59. The allegations contained in paragraph 59 of the Complaint are directed toward defendants other than Dell and Dell lacks information sufficient to form a belief as to truth of the allegations and therefore denies them.

60. The allegations contained in paragraph 60 of the Complaint are directed toward defendants other than Dell and Dell lacks information sufficient to form a belief as to truth of the allegations and therefore denies them.

61. The allegations contained in paragraph 61 of the Complaint are directed toward defendants other than Dell and Dell lacks information sufficient to form a belief as to truth of the allegations and therefore denies them.

62. No new allegations are contained within paragraph 62 and a response by Dell is not necessary. To the extent a response is deemed necessary, Dell denies any allegations contained in paragraph 45.

63. Dell admits that the face of the '187 patent indicates that it was issued on December 2, 1997. Based on the assignee information on the face of the patent, Dell denies the allegations contained in the second sentence of paragraph 46 of the Complaint.

64. Dell denies that it has infringed, contributed to or actively induced infringement of any valid and/or enforceable claim of the '187 patent. Dell denies the

remaining allegations, if any, contained in paragraph 64 of the Complaint to the extent such allegations are directed to Dell. For any allegations contained in paragraph 64 of the Complaint which are directed toward defendants other than Dell, Dell lacks information sufficient to form a belief as to truth of the allegations and therefore denies them.

65. It is not possible to determine whether the allegations in paragraph 65 of the Complaint are directed to Dell. To the extent such allegations are directed to Dell, they are denied. For any allegations contained in paragraph 65 of the Complaint which are directed toward defendants other than Dell, Dell lacks information sufficient to form a belief as to truth of the allegations and therefore denies them.

66. Dell denies that it has infringed, contributed to or actively induced infringement of any valid and/or enforceable claim of the '187 patent. Dell denies the remaining allegations, if any, contained in paragraph 66 of the Complaint to the extent such allegations are directed to Dell. For any allegations contained in paragraph 66 of the Complaint which are directed toward defendants other than Dell, Dell lacks information sufficient to form a belief as to truth of the allegations and therefore denies them.

67. The allegations contained in paragraph 67 of the Complaint are directed toward defendants other than Dell and Dell lacks information sufficient to form a belief as to truth of the allegations and therefore denies them.

68. The allegations contained in paragraph 68 of the Complaint are directed toward defendants other than Dell and Dell lacks information sufficient to form a belief as to truth of the allegations and therefore denies them.

69. The allegations contained in paragraph 69 of the Complaint are directed toward defendants other than Dell and Dell lacks information sufficient to form a belief as to truth of the allegations and therefore denies them.

70. The allegations contained in paragraph 70 of the Complaint are directed toward defendants other than Dell and Dell lacks information sufficient to form a belief as to truth of the allegations and therefore denies them.

71. The allegations contained in paragraph 71 of the Complaint are directed toward defendants other than Dell and Dell lacks information sufficient to form a belief as to truth of the allegations and therefore denies them.

72. The allegations contained in paragraph 72 of the Complaint are directed toward defendants other than Dell and Dell lacks information sufficient to form a belief as to truth of the allegations and therefore denies them.

73. The allegations contained in paragraph 73 of the Complaint are directed toward defendants other than Dell and Dell lacks information sufficient to form a belief as to truth of the allegations and therefore denies them.

74. The allegations contained in paragraph 74 of the Complaint are directed toward defendants other than Dell and Dell lacks information sufficient to form a belief as to truth of the allegations and therefore denies them.

75. The allegations contained in paragraph 75 of the Complaint are directed toward defendants other than Dell and Dell lacks information sufficient to form a belief as to truth of the allegations and therefore denies them.

76. The allegations contained in paragraph 76 of the Complaint are directed toward defendants other than Dell and Dell lacks information sufficient to form a belief as to truth of the allegations and therefore denies them.

77. No new allegations are contained within paragraph 77 and a response by Dell is not necessary. To the extent a response is deemed necessary, Dell denies any allegations contained in paragraph 77.

78. Dell admits that the face of the '065 patent indicates that it was issued on May 1, 2001. Based on the assignee information on the face of the patent, Dell denies the allegations contained in the second sentence of paragraph 78 of the Complaint.

79. Dell denies that it has infringed, contributed to or actively induced infringement of any valid and/or enforceable claim of the '065 patent. Dell denies the remaining allegations, if any, contained in paragraph 79 of the Complaint to the extent such allegations are directed to Dell. For any allegations contained in paragraph 79 of the Complaint which are directed toward defendants other than Dell, Dell lacks information sufficient to form a belief as to truth of the allegations and therefore denies them.

80. It is not possible to determine whether the allegations in paragraph 80 of the Complaint are directed to Dell. To the extent such allegations are directed to Dell, they are denied. For any allegations contained in paragraph 80 of the Complaint which are directed toward defendants other than Dell, Dell lacks information sufficient to form a belief as to truth of the allegations and therefore denies them.

81. Dell denies that it has infringed, contributed to or actively induced infringement of any valid and/or enforceable claim of the '065 patent. Dell denies the remaining allegations, if any, contained in paragraph 81 of the Complaint to the extent

such allegations are directed to Dell. For any allegations contained in paragraph 81 of the Complaint which are directed toward defendants other than Dell, Dell lacks information sufficient to form a belief as to truth of the allegations and therefore denies them.

82. The allegations contained in paragraph 82 of the Complaint are directed toward defendants other than Dell and Dell lacks information sufficient to form a belief as to truth of the allegations and therefore denies them.

83. The allegations contained in paragraph 83 of the Complaint are directed toward defendants other than Dell and Dell lacks information sufficient to form a belief as to truth of the allegations and therefore denies them.

84. The allegations contained in paragraph 84 of the Complaint are directed toward defendants other than Dell and Dell lacks information sufficient to form a belief as to truth of the allegations and therefore denies them.

85. The allegations contained in paragraph 85 of the Complaint are directed toward defendants other than Dell and Dell lacks information sufficient to form a belief as to truth of the allegations and therefore denies them.

86. The allegations contained in paragraph 86 of the Complaint are directed toward defendants other than Dell and Dell lacks information sufficient to form a belief as to truth of the allegations and therefore denies them.

87. The allegations contained in paragraph 87 of the Complaint are directed toward defendants other than Dell and Dell lacks information sufficient to form a belief as to truth of the allegations and therefore denies them.

88. The allegations contained in paragraph 88 of the Complaint are directed toward defendants other than Dell and Dell lacks information sufficient to form a belief as to truth of the allegations and therefore denies them.

89. The allegations contained in paragraph 89 of the Complaint are directed toward defendants other than Dell and Dell lacks information sufficient to form a belief as to truth of the allegations and therefore denies them.

90. The allegations contained in paragraph 90 of the Complaint are directed toward defendants other than Dell and Dell lacks information sufficient to form a belief as to truth of the allegations and therefore denies them.

91. The allegations contained in paragraph 91 of the Complaint are directed toward defendants other than Dell and Dell lacks information sufficient to form a belief as to truth of the allegations and therefore denies them.

92. No new allegations are contained within paragraph 92 and a response by Dell is not necessary. To the extent a response is deemed necessary, Dell denies any allegations contained in paragraph 92.

93. Dell admits that the face of the '588 patent indicates that it was issued on May 8, 2001. Based on the assignee information on the face of the patent, Dell denies the allegations contained in the second sentence of paragraph 93 of the Complaint.

94. Dell denies that it has infringed, contributed to or actively induced infringement of any valid and/or enforceable claim of the '588 patent. Dell denies the remaining allegations, if any, contained in paragraph 94 of the Complaint to the extent such allegations are directed to Dell. For any allegations contained in paragraph 94 of the

Complaint which are directed toward defendants other than Dell, Dell lacks information sufficient to form a belief as to truth of the allegations and therefore denies them.

95. It is not possible to determine whether the allegations in paragraph 95 of the Complaint are directed to Dell. To the extent such allegations are directed to Dell, they are denied. For any allegations contained in paragraph 95 of the Complaint which are directed toward defendants other than Dell, Dell lacks information sufficient to form a belief as to truth of the allegations and therefore denies them.

96. Dell denies that it has infringed, contributed to or actively induced infringement of any valid and/or enforceable claim of the '588 patent. Dell denies the remaining allegations, if any, contained in paragraph 96 of the Complaint to the extent such allegations are directed to Dell. For any allegations contained in paragraph 96 of the Complaint which are directed toward defendants other than Dell, Dell lacks information sufficient to form a belief as to truth of the allegations and therefore denies them.

97. The allegations contained in paragraph 97 of the Complaint are directed toward defendants other than Dell and Dell lacks information sufficient to form a belief as to truth of the allegations and therefore denies them.

98. The allegations contained in paragraph 98 of the Complaint are directed toward defendants other than Dell and Dell lacks information sufficient to form a belief as to truth of the allegations and therefore denies them.

99. The allegations contained in paragraph 99 of the Complaint are directed toward defendants other than Dell and Dell lacks information sufficient to form a belief as to truth of the allegations and therefore denies them.

100. The allegations contained in paragraph 100 of the Complaint are directed toward defendants other than Dell and Dell lacks information sufficient to form a belief as to truth of the allegations and therefore denies them.

101. The allegations contained in paragraph 101 of the Complaint are directed toward defendants other than Dell and Dell lacks information sufficient to form a belief as to truth of the allegations and therefore denies them.

102. The allegations contained in paragraph 102 of the Complaint are directed toward defendants other than Dell and Dell lacks information sufficient to form a belief as to truth of the allegations and therefore denies them.

103. The allegations contained in paragraph 103 of the Complaint are directed toward defendants other than Dell and Dell lacks information sufficient to form a belief as to truth of the allegations and therefore denies them.

104. The allegations contained in paragraph 104 of the Complaint are directed toward defendants other than Dell and Dell lacks information sufficient to form a belief as to truth of the allegations and therefore denies them.

105. The allegations contained in paragraph 105 of the Complaint are directed toward defendants other than Dell and Dell lacks information sufficient to form a belief as to truth of the allegations and therefore denies them.

106. The allegations contained in paragraph 106 of the Complaint are directed toward defendants other than Dell and Dell lacks information sufficient to form a belief as to truth of the allegations and therefore denies them.

## **II. DEFENSES**

107. The claims of the patents-in-suit are invalid for failure to meet the requirements of the United States patent laws, 35 U.S.C. §100 *et seq.*, including but not limited to 35 U.S.C. §§ 102, 103 and 112.

108. Dell has not infringed, contributed to the infringement of or induced the infringement of any valid and/or enforceable claim of the patents-in-suit.

109. Individuals or entities that are named as a party to this action are liable for all of Plaintiff's claims against Dell.

110. Plaintiff's claim for damages, if any, against Dell is statutorily limited by 35 U.S.C. § 286 and/or §287.

111. Dell denies that Plaintiff is entitled to any of the relief requested in its Prayer for Relief against Dell.

## **III. COUNTERCLAIMS**

### **Parties**

112. Counterclaimant Dell Inc. ("Dell") is a corporation organized under the laws of the State of Delaware, with its principal place of business at One Dell Way, Round Rock, Texas 78682.

113. On information and belief, counterclaim defendant Guardian Industries Corporation ("Guardian") is a corporation organized and existing under the laws of Delaware with its principal place of business at 2300 Harmon Road, Auburn Hills, Michigan, 48326-1714.

**Jurisdiction and Venue**

114. The counterclaims include claims for declaratory judgment of patent non-infringement and patent invalidity, and jurisdiction is proper under the Federal Declaratory Judgments Act, 28 U.S.C. §§ 2201 and 2202, and the Patent Laws of the United States, 35 U.S.C. § 100 *et seq.*, concerning actions related to patents, and 28 U.S.C. §§ 1331 and 1338.

115. Venue is proper in this Court under 28 U.S.C. § 1391(c) and § 1400(b).

**Count One – Declaratory Relief Regarding Non-Infringement**

116. Based on the filing by Guardian of this suit and Dell's defenses, an actual controversy has arisen and now exists between the parties as to whether or not Dell has directly and/or indirectly infringed any valid claim of the patent-in-suit.

117. Pursuant to the Federal Declaratory Judgment Act, 28 U.S.C. §§ 2201 *et seq.*, Dell requests a declaration from the Court that Dell has not infringed any valid claim of the patents-in-suit, either directly, contributorily, or by inducement, or either literally or under the doctrine of equivalents.

**Count Two – Declaratory Relief Regarding Invalidity**

118. Based on the filing by Guardian of this suit and Dell's defenses, an actual controversy has arisen and now exists between the parties as to the validity of each of the claims of the patent-in-suit.

119. Pursuant to the Federal Declaratory Judgment Act, 28 U.S.C. §§ 2201 *et seq.*, Dell requests a declaration from the Court that each of the claims of the patents-in-suit are invalid for failure to comply with the provisions of the patent laws, 35 U.S.C. §

100 *et seq.*, including but not limited to one or more of 35 U.S.C. §§ 101, 102, 103, and/or 112.

**IV. EXCEPTIONAL CASE**

120. This is an exceptional case under 35 U.S.C. § 285 and, as such, Dell is entitled to recover from the Plaintiff Dell's attorneys' fees and costs incurred in connection with this action.

**V. DEMAND FOR JURY**

121. Pursuant to FED. R. CIV. P. 28, Dell hereby demands a trial by jury as to all fact issues in this lawsuit.

**PRAYER**

Dell prays that:

(a) Plaintiff's Complaint against Dell be dismissed, with prejudice, and that a take-nothing judgment be entered in favor of Dell;

(b) Judgment be entered in favor of Dell declaring that each of the claims of the '214 patent, the '187 patent, the '065 patent, and the '588 patent are invalid and that Dell has not infringed any claim of such patents either literally or under the doctrine of equivalents.

(c) Judgment be entered in favor of Dell and against the Plaintiff that this is an exceptional case and awarding Dell its attorneys' fees and costs under 35 U.S.C. § 285; and

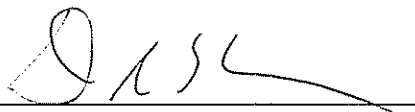
(d) Dell be awarded any such other and further relief as is just and proper.

POTTER ANDERSON & CORROON LLP

OF COUNSEL:

Roderick B. Williams  
Avelyn M. Ross  
VINSON & ELKINS  
2801 Via Fortuna, Suite 100  
Austin, TX 78746-7568  
Tel.: (512) 542-8400

Dated: April 18, 2005

By:   
Richard L. Horwitz (#2246)  
David E. Moore (#3983)  
Hercules Plaza, 6<sup>th</sup> Floor  
1313 N. Market Street  
P. O. Box 951  
Wilmington, DE 19899  
Tel.: (302) 984-6000

*Attorneys for Defendant Dell, Inc.*

678571

**IN THE UNITED STATES DISTRICT COURT  
FOR THE DISTRICT OF DELAWARE**

**CERTIFICATE OF SERVICE**

I, David E. Moore, hereby certify that on April 18, 2005, the attached document was hand delivered to the following persons and was electronically filed with the Clerk of the Court using CM/ECF which will send notification of such filing(s) to the following and the document is available for viewing and downloading from CM/ECF.

Gerard M. O'Rourke  
Connolly Bove Lodge & Hutz  
The Nemours Building  
1007 North Orange Street  
P.O. Box 2207  
Wilmington, DE 19899

Jeffrey S. Goddess  
Rosenthal Monhait Gross & Goddess  
919 Market Street, Suite 1401  
P.O. Box 1070  
Wilmington, DE 19899-1070

Josy W. Ingersoll  
Young Conaway Stargatt & Taylor  
The Brandywine Building  
1000 West Street, 17<sup>th</sup> Floor  
P.O. Box 391  
Wilmington, DE 19899-0391

Richard K. Herrmann  
Mary B. Matterer  
Morris James Hitchens & Williams  
222 Delaware Avenue, 10<sup>th</sup> Floor  
P.O. Box 2306  
Wilmington, DE 19899-2306  
(302) 888-6800



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David E. Moore